

# **EXHIBIT A**

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
COUNTY OF WHATCOM

KEN AND CINDY GUINN,

No. 22-2-00576-37

Plaintiffs,

vs.

SUMMONS

CMH MANUFACTURING WEST, INC.,  
dba MARLETTE HOMES, and DOES 1 to  
10,

(20 Days)

Defendants.

TO: CMH MANUFACTURING WEST, INC.  
AGENT FOR SERVICE: CT Corporation System  
711 Capitol Way S., Suite 204  
Olympia, WA 98501-1267

TO THE DEFENDANT(S): A lawsuit has been started against you in the above-entitled court by plaintiffs. Said claim is started in the written complaint, a copy of which is served upon you with this summons.

In order to defend against this lawsuit, you must respond to the complaint by stating your defenses in writing, and by serving a copy upon the person signing this

SUMMONS - I

**CTM Legal Group**  
705 Second Ave., Suite 1300  
Seattle, Washington 98104  
Phone: (206) 268-9500 Fax: (206) 962-5830

1 summons within 20 days after the service of this summons, excluding the day of  
2 service, or a default judgment may be entered against you without notice. A default  
3 judgment is one where plaintiffs are entitled to what has been asked for because you  
4 have not responded. If you serve a notice of appearance on the undersigned person,  
5 you are entitled to notice before a default judgment may be entered.


6 You may demand that the plaintiffs file this lawsuit with the court. If you do so,  
7 the demand must be in writing and served upon the person signing this summons.  
8 Within 14 days after you serve the demand, the plaintiffs must file this lawsuit with the  
9 court, or the service on you of this summons and complaint will be void. If you wish to  
10 seek the advice of an attorney in this matter, you should do so promptly so that your  
11 written response, if any, may be served on time.  
12

13 THIS SUMMONS is issued pursuant to Rule 4 of the Superior Court Civil Rules  
14 of the State of Washington.

15 Dated this 18th day of May, 2022.

16 CTM Legal Group

17 705 Second Ave., Suite 1300  
18 Seattle, WA 98104  
19 Ph: 206-268-9500  
20 Fax: 206-962-5830

21   
22 Matthew R. Brady  
23 Attorneys for Plaintiffs  
24

EVAN P. JONES

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
COUNTY OF WHATCOM

KEN AND CINDY GUINN,

Plaintiffs,

vs.

CMH MANUFACTURING WEST, INC.,  
dba MARLETTE HOMES, and DOES 1 to  
10,

Defendants.

No. **22 2 00576 37**

COMPLAINT FOR BREACH OF  
WARRANTY, VIOLATION OF  
MAGNUSON MOSS WARRANTY  
ACT AND CONSUMER  
PROTECTION ACT

COMES NOW Ken and Cindy Guinn, Plaintiffs, and state their claims as follows:

**1. PARTIES**

1.1. Plaintiffs Ken Guinn and Cindy Guinn are married individuals who reside in  
Washington State.

1.2. Defendant CMH Manufacturing West, Inc., doing business as Marlette Homes  
("Marlette"), is a foreign corporation doing business in Snohomish County,

1 Washington State.

2 1.3. Plaintiffs are ignorant of the true names and capacities of the Defendants sued  
3 under the fictitious names DOES 1 to 10. When Plaintiffs become aware of the  
4 true names and capacities of the Defendants sued as DOES 1 to 10, Plaintiffs  
5 will amend their Complaint to state their true names and capacities.  
6

7 1.4. All acts of Defendants' corporate employees as alleged below were authorized  
8 or ratified by an officer, director or managing agent of the corporate employer.

9 1.5. Each Defendant, whether actually or fictitiously named herein, was the  
10 principal, agent (actual or ostensible), or employee of each other Defendant and  
11 in acting as such principal or within the course and scope of such employment  
12 or agency, took some part in the acts and omissions hereinafter set forth by  
13 reason of which each Defendant is liable to Plaintiff for the relief prayed for  
14 herein.  
15  
16

## 17 2. JURISDICTION AND VENUE

18 2.1. This Court has jurisdiction because the amounts in controversy fall within the  
19 jurisdictional limits of the Court.

20 2.2. Venue is proper in Whatcom County Superior Court under RCW 4.12.025 (3),  
21 as one of the corporate defendants resides in Whatcom County and the  
22 agreement entered into with the corporations was made in Whatcom County.  
23  
24

3. STATEMENT OF FACTS

3.1. The Plaintiffs purchased a new 2018 model-year Marlette manufactured home  
"Manufactured Home") on May 15, 2018.

3.2. The total purchase price for the home and the land on which it was located was  
\$255,000.

3.3. The vehicle had a "one/five year plus one month" limited warranty provided  
by Marlette.

3.4. That warranty states, in part, that certain systems are covered for sixty-one  
months following retail delivery of the home. These systems include the frame,  
the sub-floor structure, the general structural envelope, and the plumbing  
system, among other systems.

3.5. Soon after taking possession, a member of the plaintiffs' family was outside the  
Manufactured Home while another was showering inside. The party outside  
noticed that water was coming out of the side of the home due to a leak.

3.6. Within a month after taking possession, the plaintiffs noticed significant dips in  
the floors.

3.7. The plaintiffs suffer from disabilities that affect their mobility, so these dips  
presented a heightened danger of tripping and falling.

3.8. The plaintiffs also noted that when they turned the heat on in the  
Manufactured Home, the linoleum in the kitchen lifted in large wave patterns

1 throughout the area.

2 3.9. A local repair technician came to investigate the Manufactured Home. He  
3 noted that the main beam under the floor was broken. He reinforced the beam  
4 with a two-by-four. He also noted that the linoleum floor had not been glued  
5 down.  
6

7 3.10. In January 2019 the plaintiffs contacted the defendants for the first time to  
8 discuss the defects that needed to be repaired. After some time, they were able  
9 to state their claim and they were told it would be several months before  
10 anything could be done because there were other homes with higher priority.  
11

12 3.11. In April 2019, after hearing nothing more from the defendants, the plaintiffs  
13 called once again, and were told the defendants would send a contractor to  
14 investigate.

15 3.12. In May 2019 the contractor inspected the Manufactured Home. He said the  
16 floors needed to be removed and replaced, that the main bathroom tub had two  
17 three-inch cracks on the bottom and that they should no longer use it. He told  
18 them to call him a week later to make sure that the defendants got his work  
19 order.  
20

21 3.13. Soon after that, defendants called to discuss replacing some decking. Plaintiffs  
22 asked if defendants had gotten the contractor's report, and they were told he no  
23 longer worked for the defendants.  
24

1 3.14. In June 2019 defendant sent three technicians to address the floor. Defendant  
2 told plaintiffs that a local contractor would be sent to address the issues in the  
3 bathroom.

4 3.15. The technicians replaced floor decking in the kitchen and bathroom. They  
5 stated in their repair order that more work was needed, and they told plaintiff  
6 several times that all the floors needed to be removed and replaced.

7 3.16. Within two weeks, the plaintiffs could feel dips in the flooring again.

8 3.17. Defendant offered to send another crew in August. Plaintiffs responded that  
9 they did not think the previous repairs were adequate, and asked that the floor  
10 decking be removed and replaced and that the supporting structural issues be  
11 addressed.

12 3.18. In November 2019 plaintiffs went to a local dealer for defendant's products and  
13 explained the problems they were having. The dealer referred them to a local  
14 repairman, who was the owner's son.

15 3.19. That person came to the Manufactured Home and looked at it. He said the  
16 problems would be addressed, but he wanted to approach it through the  
17 proper channels offered by the defendants.

18 3.20. In or around December 2019, plaintiffs received a letter from Marlette declaring  
19 that the Manufactured Home was up to code and that they would not take any  
20 more action to repair it.



1 3.21. In May 2020, a member of plaintiff's family noted a foul odor in the bathroom.

2 They reported this but nobody came to diagnose or repair it.

3 3.22. The dips in the floors have continued to worsen and have not been addressed.

4 The master bathroom vanity has detached from the wall, there is a six-inch  
5 crack in the master shower. There is a crack running from the ceiling to the  
6 floor in the main bathroom. There is a crack in the ceiling of the living room  
7 just above where the break in the main floor beam had been found. The  
8 unevenness in the kitchen floor has made the cabinet facings pull away from  
9 the cabinet bodies.  
10

11 3.23. The warranty for the structural defects in the Manufactured Home is still in  
12 effect, but the defendants have not brought the home to warranty condition.  
13

14 3.24. In May 2021, the Guinns had a local contractor give them a quote for  
15 performing the necessary repairs to the flooring, floor support, kitchen  
16 cabinets, vanity, and bath. The quote exceeded \$75,000.  
17

18 **4. FIRST CAUSE OF ACTION: BREACH OF EXPRESS WARRANTY**

19 (Against All Defendants)

20 4.1. The Manufactured Home had, at the time of purchase, an express limited  
21 warranty for 61 months on structural systems.

22 4.2. Under the terms of that warranty, the warrantor promised to remedy  
23 substantial defects in materials and workmanship within a reasonable amount  
24

1 of time.

2 4.3. From the initial retail purchase date of May 15, 2018, to the date of filing of this  
3 Complaint, the Manufactured Home has been subject to repair on several  
4 occasions.

5  
6 4.4. The Defendants have been unable to bring the Manufactured Home to  
7 warranty condition within a reasonable time and the repairs completed have  
8 not adequately addressed the defects the Guinns have experienced.

9 4.5. Plaintiffs have remedies otherwise available under the Uniform Commercial  
10 Code if a limited warranty fails in its essential purpose. RCW 62A.2-719(2).

11  
12 4.6. Unreasonable delays in repairing or inability to adequately repair a product  
13 where the manufacturer has promised such repairs causes a limited warranty  
14 to fail of its essential purpose and substantially impaired the Manufactured  
15 Home's value to the Plaintiffs.

16 4.7. As such, the Guinns are entitled to the remedies otherwise available under the  
17 U.C.C., such as actual damages, consequential damages, and revocation of  
18 acceptance.  
19

20 **5. SECOND CAUSE OF ACTION: BREACH OF IMPLIED WARRANTY**

21 (Against All Defendants)

22 5.1. The defendants breached the implied warranty of merchantability under RCW  
23 62A.2-314 because the Manufactured Home was not merchantable when it was  
24

1 sold to the plaintiffs.

2 5.2. In order for goods to be merchantable, they must pass without objection in the  
3 trade under the contract description. RCW 62A.2-314(2)(a). The characteristics  
4 of similar goods manufactured by other is taken into consideration when  
5 evaluating merchantability.  
6

7 5.3. The Manufactured Home does not pass without objection in the trade of  
8 manufactured homes because a new home of that type would not be expected  
9 to exhibit serious and potentially dangerous structural failures within a month  
10 of occupancy.  
11

12 5.4. In order for goods to be merchantable, they must be fit for the ordinary  
13 purposed for which such goods are used. RCW 62A.2-314(2)(c).

14 5.5. The Manufactured Home was not fit for its ordinary purpose of being  
15 inhabited at the time of sale because it exhibited multiple defects that affected  
16 its usage and safety. It does not pass without objection in the trade and is not fit  
17 for its ordinary purpose. Therefore, the Manufactured Home is not  
18 merchantable.  
19

20 5.6. The implied warranty of fitness for a particular purpose exists when the seller  
21 has reason to know of any particular purpose for which the goods are required  
22 and that the buyer is relying on the seller's skill or judgment to select or furnish  
23 suitable goods. RCW 62A.2-315.  
24

1 5.7. The defendants knew that the plaintiffs intended to use the Manufactured  
2 Home as their primary residence. Due to its defects, the Manufactured Home  
3 has failed to perform for that particular purpose.

4  
5 5.8. Plaintiffs are entitled to either revocation of their acceptance of the  
6 Manufactured Home or actual damages for breach of warranty.

7 **6. THIRD CAUSE OF ACTION: MAGNUSON MOSS WARRANTY ACT**

8 (Against All Defendants)

9  
10 6.1. The express warranty on the Manufactured Home qualifies as a Magnuson-  
11 Moss warranty.

12 6.2. The implied warranties, which arose under state law in connection with the  
13 sale of a consumer product, qualify as a Magnuson-Moss warranty.

14 6.3. By delivering a vehicle that was from the point of its manufacture  
15 unmerchantable and unfit for its particular purpose as a recreation vehicle, the  
16 defendants breached the implied warranties.

17  
18 6.4. By failing to complete adequate repairs, and by failing to complete repairs  
19 within a reasonable time, the defendants breached the express warranty.

20 6.5. Defendants failed to comply with the terms of the implied warranties and the  
21 express warranties.

22 6.6. The plaintiffs were damaged by that failure. They have incurred mitigation  
23 expenses, lost use, and consequential damages, and the value of the  
24

1 Manufactured Home is considerably diminished by the defendant's breaches.

2 6.7. Under the Magnuson-Moss Warranty Act, the plaintiffs are entitled to recover  
3 actual damages, costs and attorney fees, as well as other damages available to  
4 them under state law.  
5

6 **7. FOURTH CAUSE OF ACTION: VIOLATION OF WASHINGTON'S**  
7 **CONSUMER PROTECTION ACT (RCW 19.86)**

8 (Against All Defendants)

9 7.1. Washington's Consumer Protection Act ("CPA") states that unfair or deceptive  
10 acts and practices in trade or commerce are unlawful.

11 7.2. Defendants committed unfair or deceptive acts and practices in commerce,  
12 including but not limited to representing that the Manufactured Home's  
13 defects would be remedied within a reasonable amount of time, and then  
14 failing to deliver on that promise.  
15

16 7.3. Defendants also committed unfair or deceptive acts and practices when they  
17 refused to provide additional warranty repairs despite the continued need for  
18 such repairs and the fact that they were undisputedly covered by the warranty.  
19

20 7.4. The plaintiffs have informed the defendants that they suffer from physical  
21 disabilities that affect their daily lives. Due to these disabilities, the defects in the  
22 home—particularly the sagging floors—pose a risk of tripping and falling that is  
23 greater than that of people without similar disabilities.  
24

1 7.5. Defendants have committed unfair acts, as they have both failed and refused to  
2 provide accommodation for the plaintiffs' disabilities and have told them they  
3 do not intend to make further repairs.

4 7.6. The defendant's acts affected the public interest in that they were committed in  
5 their regular course of business; the defendants advertised to the public in  
6 general through various means, including but not limited to their websites,  
7 point of sale displays, and branding; and the defendant and plaintiff occupied  
8 unequal bargaining positions. There is a likelihood that additional members of  
9 the public have been or will be injured in the same fashion.  
10

11 7.7. The plaintiffs suffered harm to their business or property as a result of the  
12 defendant's actions, including the purchase cost for the vehicle, the diminished  
13 value of the home, and repair costs, as well as consequential damages related to  
14 mitigation and investigation.  
15

16 7.8. The Consumer Protection Act entitles a consumer who has suffered harm to  
17 recover actual damages, attorney fees and costs. It also authorizes the court to  
18 grant additional damages at triple actual damages up to \$25,000.  
19

20 7.9. The CPA also authorizes injunctive relief.

21 **8. PRAYER FOR RELIEF**

22 Ken and Cindy Guinn, Plaintiffs, seek judgment against Defendants as follows:  
23

24 A. For actual damages in at least the amount of their repair costs or diminished

1 value, to be proven at trial;

2 B. For consequential and incidental damages according to proof;

3 C. For additional statutory damages up to three times actual damages  
4 (maximum \$25,000) under the Consumer Protection Act;  
5

6 D. For reasonable attorney fees and costs pursuant to RCW 19.86.090 and 15  
7 U.S.C. 2310 (Magnuson-Moss Warranty Act);

8 E. For leave to amend the Plaintiffs' pleadings to conform to proof later  
9 discovered or offered at trial; and

10 F. For any other relief under law or equity, as the Court sees fit.

11 DATED this 11<sup>th</sup> day of May, 2022  
12

13  
14   
15 Matthew R. Brady, WSBA #27245  
16 CTM Legal Group  
17 705 Second Ave., Suite 1300  
18 Seattle, WA 98104  
19 Tel. 206-268-9500  
20 Fax 206-962-5830  
21 ATTORNEY FOR PLAINTIFFS  
22  
23  
24



## CIVIL

EVAN P. JONES

## WHATCOM COUNTY SUPERIOR COURT

## Case Information Cover Sheet (CICS)

Case Number 22 2 00576 33 Case Title Andy Guion v CMH Mfg. West, Inc.Attorney Name Matthew BradyBar Membership Number 27245

Please check one category that best describes this case for indexing purposes. Accurate case indexing not only saves time in docketing new cases, but helps in forecasting needed judicial resources. Cause of action definitions are listed on the back of this form. Thank you for your cooperation.

Form updated 12/28/2020

- |  |  |
|--|--|
| <input type="checkbox"/> ABJ Abstract of Judgment                            | <input type="checkbox"/> PRG Property Damage – Gangs                     |
| <input type="checkbox"/> ABL Abusive Litigation                              | <input type="checkbox"/> PRP Property Damages                            |
| <input type="checkbox"/> ALR Administrative Law Review                       | <input type="checkbox"/> QTI Quiet Title                                 |
| <input type="checkbox"/> ALRJT Administrative Law Review-Jury Trial (L&I)    | <input type="checkbox"/> RDR Relief from Duty to Register                |
| <input type="checkbox"/> BAT Ballot Title                                    | <input type="checkbox"/> RFR Restoration of Firearm Rights               |
| <input type="checkbox"/> CHN Non-Confidential Change of Name                 | <input type="checkbox"/> SDR School District-Required Action Plan        |
| <input type="checkbox"/> CBC Contractor Bond Complaint                       | <input type="checkbox"/> SER Subdivision Election Process Law Review     |
| <input type="checkbox"/> COL Collection                                      | <input type="checkbox"/> SPC Seizure of Property-Commission of Crime     |
| <input type="checkbox"/> CON Condemnation                                    | <input type="checkbox"/> SPR Seizure of Property-Resulting from Crime    |
| <input checked="" type="checkbox"/> COM Commercial                           | <input type="checkbox"/> STK Stalking Petition                           |
| <input type="checkbox"/> CRP Pet. for Cert. of Restoration of Opportunity    | <input type="checkbox"/> SXP Sexual Assault Protection                   |
| <input type="checkbox"/> DOL Appeal Licensing Revocation                     | <input type="checkbox"/> TAX Employment Security Tax Warrant             |
| <input type="checkbox"/> DVP Domestic Violence                               | <input type="checkbox"/> TAX L & I Tax Warrant                           |
| <input type="checkbox"/> EOM Emancipation of Minor                           | <input type="checkbox"/> TAX Licensing Tax Warrant                       |
| <input type="checkbox"/> FIU Foreign Judgment                                | <input type="checkbox"/> TAX Revenue Tax Warrant                         |
| <input type="checkbox"/> FOR Foreclosure                                     | <input type="checkbox"/> TMV Tort – Motor Vehicle                        |
| <input type="checkbox"/> FPO Foreign Protection Order                        | <input type="checkbox"/> TRJ Transcript of Judgment                      |
| <input type="checkbox"/> HAR Unlawful Harassment                             | <input type="checkbox"/> TTO Tort – Other                                |
| <input type="checkbox"/> INJ Injunction                                      | <input type="checkbox"/> TXF Tax Foreclosure                             |
| <input type="checkbox"/> INT Interpleader                                    | <input type="checkbox"/> UND Unlawful Detainer – Commercial              |
| <input type="checkbox"/> LCA Lower Court Appeal – Civil                      | <input type="checkbox"/> UND Unlawful Detainer – Residential             |
| <input type="checkbox"/> LCI Lower Court Appeal – Infractions                | <input type="checkbox"/> VAP Vulnerable Adult Protection Order           |
| <input type="checkbox"/> LUPA Land Use Petition Act                          | <input type="checkbox"/> VEP Voter Election Process Law Review           |
| <input type="checkbox"/> MAL Other Malpractice                               | <input type="checkbox"/> VVT Victims of Motor Vehicle Theft-Civil Action |
| <input type="checkbox"/> MED Medical Malpractice                             | <input type="checkbox"/> WDE Wrongful Death                              |
| <input type="checkbox"/> MHA Malicious Harassment                            | <input type="checkbox"/> WHC Writ of Habeas Corpus                       |
| <input type="checkbox"/> MSC2 Miscellaneous – Civil                          | <input type="checkbox"/> WMW Miscellaneous Writs                         |
| <input type="checkbox"/> MST2 Minor Settlement – Civil (No Guardianship)     | <input type="checkbox"/> WRM Writ of Mandamus                            |
| <input type="checkbox"/> PCC Petition for Civil Commitment (Sexual Predator) | <input type="checkbox"/> WRR Writ of Restitution                         |
| <input type="checkbox"/> PFA Property Fairness Act                           | <input type="checkbox"/> WRV Writ of Review                              |
| <input type="checkbox"/> PIN Personal Injury                                 | <input type="checkbox"/> XRP Extreme Risk Protection Order               |
| <input type="checkbox"/> PRA Public Records Act                              | <input type="checkbox"/> XRU Extreme Risk Protection Order Under 18      |

IF YOU CANNOT DETERMINE THE APPROPRIATE CATEGORY, PLEASE DESCRIBE THE CAUSE OF ACTION BELOW

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